

Notice of Allowability

Application No.

10/073,277

Examiner

Vy Q. Bui

Applicant(s)

PENN ET AL.

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to interview 10/07/2004.
2. ☒ The allowed claim(s) is/are 24-65 and 129-161.
3. ☒ The drawings filed on 13 February 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue.

Authorization for this examiner's amendment was given in a telephone interview with applicants' attorney, Mr. Bauer, on 10/14/2004.

2. Claims 40, 45 and 129 of the application have been amended as follows:

Claim 40 (Currently Amended) The stent defined in claim 24, wherein said flexure member, in two dimensions, is U-shaped.

Claim 45 (Currently Amended) An unexpanded stent comprising:
a tubular wall having a series of undulating circumferential portions, each circumferential portion comprising alternating peaks and valleys;

the tubular wall also having a plurality of longitudinal portions connecting said series of undulating circumferential portions to form a porous, cylindrical surface;

a longitudinal portion connecting a peak in a first circumferential portion with a valley in a second circumferential portion adjacent to the first circumferential portion; and

each of said plurality of longitudinal portions having a flexure member that provides lateral flexibility to said stent and is disposed within each of said plurality of longitudinal portions, each said flexure member, in two dimensions, being (i) non-sinusoidal, (ii) interposed between a pair of straight strut portions which are disposed parallel to a longitudinal axis of the stent, and (iii) arcuate.

Claim 129 (Currently Amended) An unexpanded stent comprising:
a tubular wall having a series of undulating circumferential portions, each circumferential portion comprising alternating peaks and valleys;
the tubular wall also having a plurality of longitudinal portions connecting said series of undulating circumferential portions to form a porous, cylindrical surface;
a longitudinal portion connecting a peak in a first circumferential portion with a valley in a second circumferential portion adjacent to the first circumferential portion; and
each of said plurality of longitudinal portions having a flexure member that provides lateral flexibility to said stent and is disposed within each of said plurality of longitudinal portions, each said flexure member, in two dimensions, being (i) non-sinusoidal, (ii) arcuate, and (iii) comprising a pair of substantially straight strut portions disposed substantially orthogonal to a longitudinal axis of the stent, the pair of substantially straight strut portions being interconnected by a curved portion.

3. The following is an examiner's statement of reasons for allowance: The amendment has clearly distinguished the present invention to the prior art reference. The prior art of reference has failed to disclose or suggest an unexpanded stent comprising a series of undulating circumferential portions defining peaks and valleys, a plurality of longitudinal portion connecting said series of undulating circumferential portions, wherein at least one longitudinal portion connects a peak in a first circumferential portion with a valley in a second circumferential portion adjacent to the first circumferential portion and wherein each longitudinal portion has a non-sinusoidal flexure member interposed between a pair of straight strut portions which are disposed parallel to the longitudinal axis of the stent.

Claims 24-65 and 129-161 are allowed.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 703-306-3420. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T Nguyen can be reached on 703-308-2158. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



10/15/2004

Vy Q. Bui
Primary Examiner
Art Unit 3731